

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



KENNETH L. YORK,

Petitioner,

v.

Case No. 2:12cv653

ERIC D. WILSON, Warden,
FCI Petersburg Medium,

Respondent.

FINAL ORDER

This case arises from what has been docketed as a Petition for a Writ of *Habeas Corpus* filed on December 3, 2012 pursuant to 28 U.S.C. § 2241. ECF No. 1. The Petition was referred to the United States Magistrate Judge pursuant to a referral order dated April 5, 2013 from the U.S. District Judge, ECF No. 2, and pursuant to 28 U.S.C. § 636(b)(1)(B) and (C), Federal Rule of Civil Procedure 72(b), and Local Civil Rule 72. In his submission, the Petitioner's claims are unclear, as are his grounds for relief. On August 21, 2013, the United States Magistrate Judge issued an order that directed the Petitioner "to clearly and concisely state the claims for which he is seeking habeas relief under § 2241" by filing an amended petition. ECF No. 13. The Petitioner filed an "Amended Petition" on October 16, 2013, but the United States Magistrate Judge found that the submission was as equally unclear and unintelligible as the original Petition. *See* ECF No. 18. Consequently, in a Report and Recommendation filed December 16, 2013, the United States Magistrate Judge recommended that the original petition, ECF No. 1, and the Amended Petition, ECF No. 18, be denied and dismissed without prejudice to the Petitioner's right to file a proper petition. By receiving a copy of the Report and Recommendation, the

parties were advised of their right to file written objections to the Magistrate Judge's findings and recommendations. On December 30, 2013, the Court received the Petitioner's objections to the Report and Recommendation. ECF No. 21. A day later, on December 31, 2013, the Court received an untitled submission from the Petitioner. ECF No. 22.

After reviewing the record *de novo*, including the Petitioner's objections and the additional submission, the Court agrees with the Report and Recommendation on the grounds stated by the United States Magistrate Judge and **ADOPTS** and **APPROVES** the Magistrate Judge's Report and Recommendation filed on December 16, 2013, ECF No. 20, in its entirety as the Court's own opinion.

Accordingly, the Court **DENIES** the original petition, ECF No. 1, and the amended petition, ECF No. 18, for the reasons stated in the Report and Recommendation, and **ORDERS** that this matter be **DISMISSED WITHOUT PREJUDICE** to the Petitioner's right to file a proper petition asserting claims under which relief can be granted.

The Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of the Court at the Walter E. Hoffman United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within sixty days from the date of entry of judgment. Because the Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), pursuant to Federal Rule of Appellate Procedure 22(b), the Court declines to issue a certificate of appealability. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).


The Clerk is **DIRECTED** to forward a copy of this Order to the *pro se* Petitioner.

It is so **ORDERED**.

Norfolk, Virginia

Date:

June 24, 2014



/s/
Raymond A. Jackson
United States District Judge